

Attorney Docket No. 200310842-1

Confirmation No. 5316

elected species are claims 1, 3 – 11, 16, 26 – 35, 38 – 41, 47 – 49, and 55 – 57. Applicants respectfully submit that claims 1 and 16 are both generic to the embodiments shown in FIGS. 2 - 8.

REMARKS

The Examiner's communication dated 07-13-2005, which included two restriction requirements and an election of species requirement, is acknowledged. A shortened period for reply was set at one month. Accordingly, this response is timely.

Claims 1 - 57 are pending in the application. Claims 1 – 57 are subject to both restriction requirements and to the election of species requirement.

With regard to the first restriction requirement, applicants affirm that the following two groups identified by the Examiner are patentably distinct:

Group I, semiconductor device (claims 1 – 16, 18 – 19, 26 – 35, 38 – 41, 47 – 49, and 55 – 57); and

Group II, method of making a semiconductor device (claims 17, 20 – 25, 36 – 37, 42 – 46, and 50 – 54).

However, the two groups are not independent, as the fabrication method of Group II is specially adapted to make semiconductor device of Group I (specification, page 7 line 30 – page 8 line 35 and page 19 lines 11 - 14).

Furthermore, examination of these two groups together would not cause an undue burden of examination because the two groups have in common at least the silicon-rich insulator of both the semiconductor device and fabrication method disclosed. Therefore, reconsideration and withdrawal of the first restriction requirement are respectfully requested.

With regard to the second restriction requirement, applicants further affirm that the following two groups identified by the Examiner are patentably distinct:

a) the embodiments of FIGS. 11 and 14 – 15; and

b) the embodiments of FIGS. 2 – 8.

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However, the two groups are not independent, as every claim that includes the elements of FIG. 11 and 14 – 15 also includes the silicon-rich insulator of FIGS. 2 – 8. Furthermore, examination of these two groups together would not cause an undue burden of examination because the claims related to FIGS. 11 and 14 – 15 have in common with the claims related to FIGS. 2 – 8 at least the silicon-rich insulator of the claims related to FIGS. 2 – 8. Therefore, reconsideration and withdrawal of the second restriction requirement are also respectfully requested.

With regard to the election of species requirement, applicants affirm that the species identified by the Examiner as the embodiments of FIGS. 2, 3, 4, 5, 6, 7, and 8 are all patentably distinct, and applicants have elected without traverse the species characterized by the Examiner as the species shown in FIG. 3. While the Examiner has stated that no claim is generic, applicants respectfully submit that both claims 1 and 16 are generic to the various embodiments shown in FIGS. 2 – 8.

Altogether, claims elected by the present response are claims 1, 3 – 11, 16, 26 – 35, 38 – 41, 47 – 49, and 55 – 57, of which both claims 1 and 16 are considered generic by the applicants.

Examination of the application is also respectfully requested.

Respectfully submitted,

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